

THE

CARTOGRAPHICAL HISTORY

OF THE

NORTH-EASTERN BOUNDARY CONTROVERSY

BETWEEN THE

UNITED STATES AND GREAT BRITAIN.

By JUSTIN WINSOR.

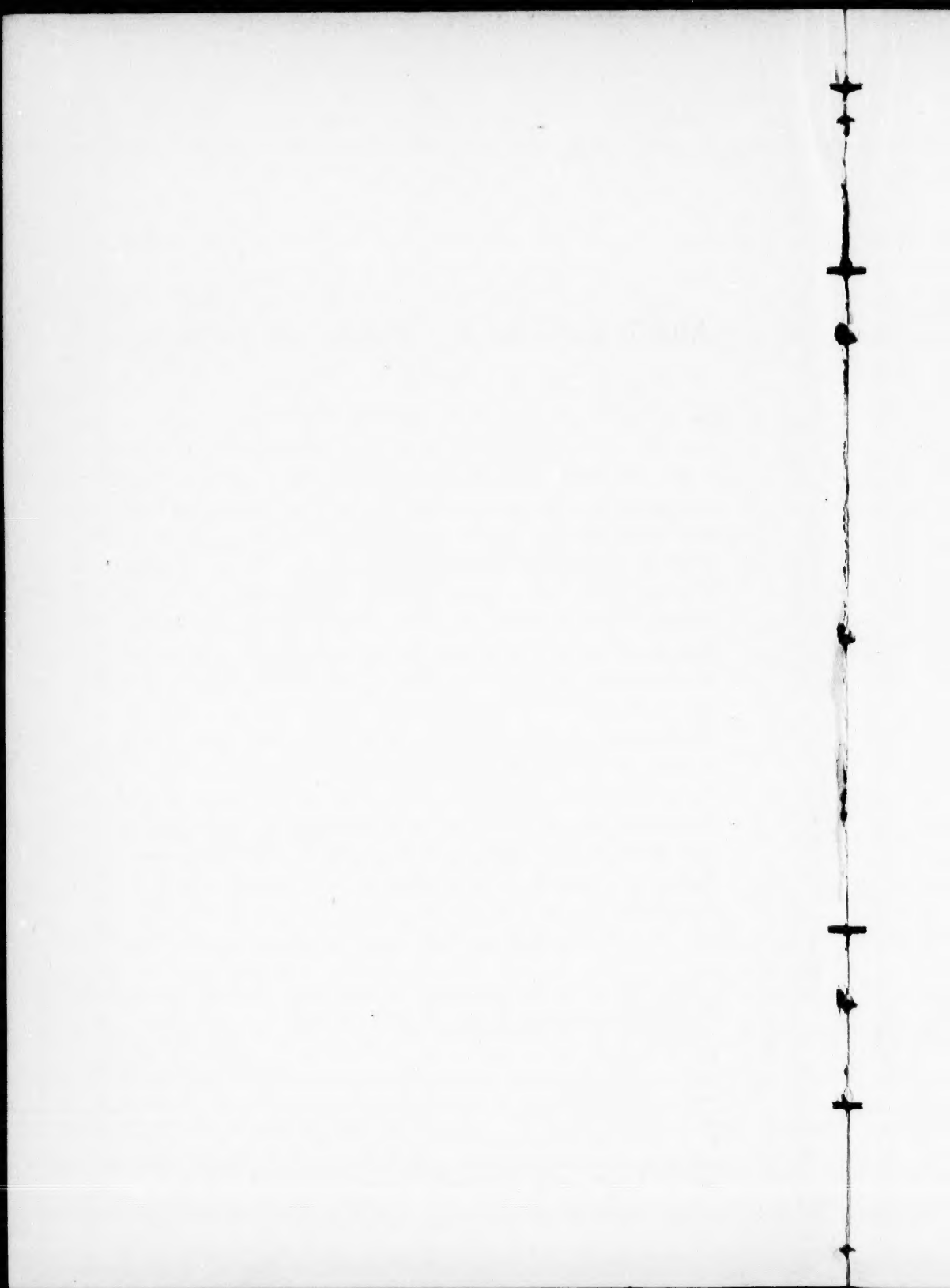
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NORTH-EASTERN BOUNDARY CONTROVERSY.

Mr. WINSOR drew attention to a manuscript statement (belonging to the Society) of the reasons which induced the Commissioners under Jay's Treaty to decide that the Schoodiac River was the St. Croix of the Treaty of 1783. The award or "declaration" of the Commissioners had been several times printed;¹ but Mr. Winsor could not find that this exposition as drawn up by Egbert Benson, the American Commissioner, had ever been given to the public. The manuscript has four well-executed copies of maps attached: (1) Champlain's map of St. Croix Island; (2) a modern survey of Bone or Douchet Island, identified as Champlain's St. Croix Island; (3) a section of Mitchell's map of 1755 used by the Commissioners in 1783; (4) a modern survey of Passamaquoddy Bay. Champlain's map is well known, though Mr. Benson says that the Commissioners were obliged to send to Europe for a copy of the "Voyages" of 1613, which contains it.² Mr. Winsor said that he visited the island in question a

¹ U. S. Ho. of Rep. Ex. Doc. No. 31, 27th Cong. 3d sess. note ii.; Atcheson's *American Encroachments*, London, 1808; and elsewhere.

² There are copies of the book now in the Library of this Society, and in several of the important American libraries. A good copy is worth from \$100 to \$150 at the present time. The map is easily found at this day in the modern reprints and translations of Champlain, in the "Narrative and Critical History of America" (vol. iv. p. 137), etc. T. C. Amory (*James Sullivan*, vol. i. p. 322) says that "Colonel Pickering procured for Sullivan [the American agent] many valuable books, and among others, after sending for them without success to Europe, borrowed from the library of Jefferson copies of Champlain and Lescarbot.

few years since, but he could find no traces of the foundations of the buildings mentioned by Mr. Benson, and he learned that the stone had been taken for building purposes, and was very likely worked into the foundations of the cottage, now on the island, which carries a coast-lantern of the United States on its roof. Mitchell's map is well known; and fac-similes of it were given in Gallatin's "Northeastern Boundary" (1840), in "Mass. Doc. Mar. 1838, No. 67," and in other places.

It will be observed that the argument in the main followed by the Commissioners is this: Mitchell's map is so inaccurately drawn that the evidence deducible from it must be considered defective in every way. This postulate threw out of consideration the surmise that on Mitchell's map the most easterly of the rivers flowing into the Passamaquoddy Bay and marked "St. Croix," was the real easterly river, known as the Magaguadavic, which was the river contended for by the Americans. This left the question to be settled by the determination of what was the original St. Croix of Champlain's party. The statement of Mr. Benson, which here follows, shows the arguments in favor of considering Bone or Douchet Island as the island occupied by Champlain.

A manuscript statement of the controversy between the United States of America and Great Britain in regard to the eastern boundary of the former in the year 1796, by the hon^{ble} Egbert Benson one of the commissioners: presented to the Massachusetts Historical Society by the Author, through the hands of His Excellency Governor Strong, Anno 1802.

BENSON	}	<i>commissioners.</i>
BARCLAY		
HOWELL		

JAMES SULLIVAN *American Agent*
WARD CHIPMAN *British Agent.*

On the Question between His Britannic Majesty and the United States of America, "What River was truly intended, under the Name of the River St. Croix, mentioned in the Treaty of Peace of the 3^d Nov^r

1783, and forming a part of the Boundary therein described?" referred to the final Decision of Commissioners by the 5th Article of the Treaty of Amity, Commerce, and Navigation of the 19th Nov^r 1794.

The *Scudiac* claimed on the part of His Majesty, and the *Magadavic* on the part of the United States.

Boundaries of the United States as described in the Treaty of 1783 — "From the *north west* Angle of Nova Scotia viz^t that Angle which is formed by a Line drawn *due North* from THE Source of *S^t Croix* River to the *Highlands*, along the said Highlands which divide those Rivers that empty themselves into the River *S^t Lawrence* from those which fall into the Atlantic Ocean" — then follow the Northern, Western and Southern Boundaries, and then — "East by a Line to be drawn along the Middle of the River *S^t Croix* from its Mouth in the Bay of Fundy to its *Source* and from its Source *directly north* to the aforesaid Highlands which divide the Rivers that fall into the Atlantic Ocean from those which fall into the River *S^t Lawrence*."

Boundaries of Nova Scotia in the Grant from King James to Sir William Alexander of the 10th Sep^r 1621, translated from the Latin — "All and singular the Lands Continents and Islands situate in America within the Headland or Promontory called Cape Sable lying near the Latitude of forty three Degrees or thereabout from the Equinoctial Line towards the north from which Promontory stretching towards the Shore of the Sea to the west to a Bay commonly called *S^t Mary's Bay* and then towards the north by a direct Line passing the Entrance or Mouth of that great Bay which runs into the eastern Quarter between the Territories of the *Souriquois* and *Etchemins* to a River commonly called by the Name of *S^t Croix* and to the most remote Spring or Fountain thereof from the *western* Quarter which *first mingles* itself with the aforesaid *River* thence by an imaginary *direct* Line which may be conceived to go through the Land or run *towards* the north to the nearest Bay *River* or Spring discharging itself into the *Great River of Canada* &c^t &c^t &c^t which certain Lands shall in all future times enjoy the Name of *Nova Scotia* in America."

A *variance* will be perceived between the Description of the *Sides* of the *north west* Angle of Nova Scotia as originally contained in the Grant of 1621 and as subsequently found in the Treaty of 1783, it may not be useless therefore previously to mention — that Canada was shortly after the final Cession of it by France to Great Britain in 1763, "erected into a district and separate Government, stiled and called by the Name of *Quebec*, bounded on the Labrador Coast by the River *S^t John* and from thence by a Line from the Head of that River through the Lake *S^t John* to the south end of the Lake *Nipissim* from whence the said Line, crossing the River *S^t Lawrence* and the Lake *Champlain* in 45 degrees of north Latitude, passes along the Highlands

which divide the Rivers that empty themselves into the said River S^t Lawrence from those which fall into the Sea &c^a &c^a &c^a — that Nova Scotia was thereupon in the Commissions to the Governors, bounded on the westward by a Line drawn from Cape Sable across the Entrance of the Bay of Fundy to the Mouth of the River S^t Croix, by the said River to its *Source*, and by a Line drawn *due north* from thence to the *southern* Boundary of the Colony of *Quebec*, to the *northward* by the said Boundary &c^a &c^a &c^a — and that hence it is, that, at the time of the Treaty of 1783, the *Highlands* instead of the *River S^t Lawrence* formed the *north* side, and a Line *directly* north, or *due* north, the *west* side, of the *north west* Angle of Nova Scotia; and also that the *Source* of the River S^t Croix, from which the Line was to be drawn, was the *Source generally*, regardless of the *Position* of it, or the *Place*, or *Quarter* whether *western* or not, or the *Distance*, whether most *remote* or not when compared with any *other* *Source*, before the Waters from it *mingled* themselves with the River.

It is now to be stated that the River is described or *expressed* in the Treaty of 1783, as “that River a *Line* drawn *due north* from the *Source* of which forms the *west* side of the *north west* Angle of Nova Scotia;” and that the following Points are assumed as being unquestionable. 1st That the River was not *expressed* as it is, either by *Mistake* or *Fraud* — 2^{dly} That the River *expressed* must therefore be *adjudged* to be the River *intended* — 3^{dly} That the River *expressed* in the Treaty of 1783, and the River *expressed* in the Grant for Nova Scotia, are the *same* River; and 4^{thly} That consequently, the River, to be sought for, must be the River intended in the Grant; the following Proposition of *Fact* is therefore advanced, and the Proofs subjoined, viz^t, That the French Colonists, in 1604, named a certain *Island*, lying in what is properly an *Arm* of the *Bay* of Passamaquaddy, but by them considered, and accordingly denominated *River*, the *Island* of S^t Croix; that the Name was almost *instantly* applied *indiscriminately* as well to the *River* as to the *Island*; that the *River* is the *same* River intended under that *Name* in the Grant for Nova Scotia; and when distinguished by its supposed *Indian* Name, and by which it is more generally known, is called the *Scudiac*.

Extracts from a Publication by Sir William Alexander in London in 1624 under the Title of *Encouragement to Colonies* — “Monsieur De Montes procuring a Patent, from King Henry the fourth, of Canada from the 40th Degree eastward, comprehending all the Bounds that now is between New England and New Scotland, (after that Queen Elizabeth had formerly given one thereof as belonging to this Crown by Chabot's Discoverie) did set forth with a hundred Persons fitted for a Plantation, carried in two Ships” — after a brief Relation of the Voyage from France to Port Royal he proceeds — “After having seen

Port Royal they went to the *River* called by them *Sainte Croix*, but more fit now to be called *Tweede*, because it divides New England and New Scotland, bounding the one of them upon the East, and the other upon the west, side thereof; here they made Choice of an *Isle* that is within the *Middle* of the same, where to winter, building Houses sufficient to lodge their Number" — he concludes his Relation by mentioning — "that in the End, finding that a little Isle was but a large Prison, they resolved to return unto Port Royal" — speaking of the Limits of his Patent he says — "leaving the Limits to be appointed by his Majestie's Pleasure, which are expressed in the Patent granted unto Me under his Great Seale of his Kingdom of Scotland, marching upon the west towards the *River* of Saint Croix, now *Tweed* (where the Frenchmen did designe their first Habitation) with New-England; and on all other parts it is compassed by the Ocean and the Great River of Canada" — to this Publication a Map is annexed, in which a River is laid down, under the Name of *Tweede*, as a Boundary between New England and New Scotland, and doubtless intended to represent the *S^t Croix*.

The Voyage of De Monts, above referred to by Sir William Alexander, was in the Spring of 1604, and has been written by two different cotemporary Persons, *Champlain*, who was with him, and L'Escarbot, who came out to *La Cadie* in 1606 with Pourtrincourt, when he returned to succeed De Monts in the Attempt to colonise, and was himself the next Year at *S^t Croix* — The British Commissaries, in the Memorials between them and the French Commissaries, concerning the Limits of Nova Scotia or Acadia, printed in London in 1755, say, "the most ancient Chart extant, of this Country, is that which *Escarbot* published with his History in 1609;" and a Book published in London that Year by *P. Erondelle*, under the Title of *Nova Francia &c^a translated out of the French into English*, is evidently a Translation of this first Edition of L'Escarbot — *Champlain* published in 1613 — From these writers therefore undoubtedly Sir William Alexander obtained his Information of the Voyage of De Monts, and of the Country — They relate that De Monts, after visiting several Places on the eastern Shore of the Bay of Fundy, and among them the Bay of *S^t Mary* and Port Royal, came, on the 24th June, to the River *S^t John*; and the following Extracts from them, translated from the French, contain the Voyage thence, and other subsequent Transactions material in the present Enquiry —

Champlain — Edit: 1613 — "From the River *S^t John* we were at four Islands, on one of which we were ashore, and there found a great Abundance of Birds, called *Margos*, of which we took a number of young ones as good as young Pigeons. The *Sieur Pourtrincourt* was nearly losing himself there, but finally returned to our Bark as we were

going to search for him round the Island, which is three Leagues distant from the Main Land. Further to the west are other Islands; one containing six Leagues called by the Savages *Manthane*, to the south of which there are among the Islands many good Ports for Vessels. From the Isles of *Margos* we were at a *River* in the main Land called the *River* of the *Etchemins*, a Nation of Savages so named in their own Country; and we passed by a great Number of Islands, more than we could count, pleasant enough, containing some two Leagues, others three, others more or less. All these Islands are in a Bay, which contains, in my Judgment, more than fifteen Leagues in Circumference; in which there are a number of convenient Places to put as great a number of Vessels as one pleases; which in their Season abound in Fish, such as Cod, Salmon, *Bass*, Herring, Holibut, and other Fish, in great Number. Making *west north west*, through these Islands, we entered into a LARGE *River*, which is almost *half a League* broad at it's *Entrance*, where, having made a League or two, we found *two* Islands, the *one* very *small* near the Shore on the *west*, the other in the *Middle*, which may have *eight or nine* hundred Paces in Circumference; the Banks of which are rocky and three or four Toises high, except a small Place a *Point of Sand and Clay*, which may serve to make Bricks and other necessary things. There is another sheltered Place to put Vessels from *eighty to one hundred Tons*, but it is *dry* at *low* water. The Island is filled with Firs, Birches, Maples, and Oaks. Of itself it is in a good Situation; and there is only one side, where it slopes about forty paces, which is easy to be fortified, the *Shores* of the *Main Land* being distant on *each Side* about *nine hundred or a thousand* Paces. Vessels cannot pass on the *River* but at the Mercy of the Cannon on the Islands; which is the place we judged best, as well for the Situation, the Goodness of the Country, as for the Communication we proposed to have with the Savages of the Coasts and the interior Country; being in the Midst of them. This place is named by the Name of the *Island Saint Croix*. Passing *higher up* one sees a great *Bay*, in which there are *two* Islands, the *one high*, the *other low*, and *three* Rivers, *two* of a *middling* Size, *one* going towards the *east*, and the *other to the north*, and the *third* is *large*, which goes to the *west*. This is that of the *Etchemins* of which we have spoken above. Going into it *two Leagues*, there is a *Fall* of Water, where the Savages carry their Canoes by Land about five hundred Paces, afterwards re-entring it, from which, afterwards, crossing over a small Space of Land, one goes into the *River Norembeque* and of *S^t John*. In this place of the *Fall*, which the Vessels cannot pass because there is nothing but Rocks and because that there is no more than four or five feet Water, in May and June they take as great Abundance of *Bass* and Herrings as they can lade in their Vessels. The Soil is very fine, and there are about fifteen

or twenty Acres of Land cleared, where the Sieur De Monts sowed some Grain which came up very well. The Savages stay here some times five or six Weeks during the fishing Season. All the rest of the Country is a very thick Forest. If the Land was cleared Grain would grow there very well. This place is in forty five Degrees and one third Latitude, and the Variation of the Magnetic Needle is seventeen Degrees and thirty two minutes . . . Not having found a place more fit than this Island, we began to make a Barricade on a small Island a little separated from the Island, which served as a *Platform* for our *Cannon*. Every one employed himself so faithfully that in a little time it was rendered a Defence . . . then the Sieur De Mons began to employ the workmen to build the Houses for our Abode . . . After the Sieur De Mons had taken the place for the Magazine, which was nine Toises long, and three broad, and twelve feet high, he fixed on the Plan of his own Lodging, which was immediately built by good workmen; he then assigned to each his place . . . We then made some *Gardens*, as well on the main Land, as on the Island . . . The Sieur De Mons determined on a Change of place, and to make another Habitation to avoid the Cold and Evils which we had in the Island S^t Croix. Not having found any Port which was proper for Us then, and the little time we had to lodge ourselves and to build Houses for that purpose, we caused two Barks to be equipped, on which was laden the Carpenter's Work, of the Houses of S^t Croix, to be carried to Port Royal, twenty five Leagues from thence, where we judged an Abode would be more mild and temperate" —

In his Edition of 1632, after the above Passage where he mentions the *Latitude* and the *Variation* of the Needle, he adds, "in this place was the Habitation made in 1604," and then immediately commences another Chapter as follows. "From the said *River S^t Croix &c^a &c^a &c^a*."

L'escarbot — Edit: 1618 — "Leaving the River S^t John they came, following the Coast, at twenty Leagues from thence, into a *great River* (which is properly *Sea*) where they encamped on a small *Island* in the *Middle* of it, which being found strong by Nature and of easy Defence, besides that the Season had began to pass, and therefore it became them to think how they were to be lodged, without going farther they resolved to stay there . . . the Company staid there in the *Middle* of a *large River*, where the wind from the north and north west blows at pleasure; and because at two Leagues above there are some Streams which coming *cross-wise*, to discharge themselves into this *large Arm* of the *Sea*, this Island, the Retreat of these French, was called *Sainte Croix*, twenty five Leagues more distant than Port-Royal . . . Before we speak of the Return of the Ships to France, it becomes Us to say that the Island of S^t Croix is very difficult to be found by one who has never been there;

for there are so many Islands and great Bays to pass before one comes there, that I am astonished how any one had Patience to penetrate so far to go to find it. There are *three* or *four Mountains*, high above the others, on the Coasts, but on the *north* part from whence the *River* comes down, there is a *pointed* one more than *two Leagues* distant. The woods of the Main Land are handsome and high to Admiration, and so is the Herbage. There are Streams of fresh Water; very agreeable, where many of the People of the *Sieur De Monts* did their Work, and huted there. As to the Nature of the Soil it is very good and happily fruitful; for the *Sieur De Monts*, having caused a Piece of Land to be cultivated and sown with Rye, (I have not seen any wheat there) he had not the Means to attend to its Maturity to gather it, the Grain which fell had notwithstanding grown and shot up again wonderfully, so that two Years after we gathered of it, as fair, large, and heavy as any in France, and which this Soil hath produced without Culture; and at present it continues to increase every Year. The said Island is about *half a French League* in Circuit, and at the *End*, towards the *Sea*, there is a *Hillock*, and as it were a *separate small Island*, where the said *Sieur De Monts* placed his *Cannon*, and there is also a small *Chapel*, built in the Fashion of the Savages, at the Foot of which there are so many *Muscles* as to be wonderful, which may be gathered at low Water, but they are small. . . . During the said Voyage the *Sieur De Monts* worked at his Fort, which he had seated at the End of the Island, opposite to the place where we have said he lodged his Cannon; which was prudently considered, to the End to command the *River* up and down. But there was one Inconvenience, that the said Fort was on the Side to the North without any Shelter, except the Trees which were on the Bank of the Island, all of which thereabout he had forbid to be cut down. Without the Fort the Swiss had their Barracks, which were large and ample, and some small ones making an Appearance like a Suburb. Some had their Huts on the main Land, near a Stream, but within the Fort were the Lodgings of the said *Sieur De Monts*, made of fair and skilful Carpentry, with the Banner of France on the Top. In another part was the Magazine, where was deposited the Safety and Life of All, also of good Carpentry, and covered with Shingles, and opposite to the Magazine were the Lodgings and Houses of the *Sieur d'Orville*, *Champlain*, *Champdore*, and other Persons of Distinction. Opposite to the Lodgings of the said *Sieur de Monts* was a covered Gallery to exercise for Amusement or for the Workmen when it rained, and between the said Fort and the Platform of the Cannon all was filled with *Gardens*. . . . The severe Season being passed, the *Sieur De Monts*, tired of his sorrowful Abode of *Sainte Croix*, determined to search for another Port, in a Country more warm and more to the south. . . . having seen the Coast of *Malebarre*, and with much Labour, without

finding what he desired, he determined to go to Port Royal, to make his Stay there, and wait until he should have the Means to make a more ample Discovery; so every one was employed to bind up his Pack, and they demolished what they had built with Infinity of Labour &c. &c. &c." —

Subsequent to the View of the Mouths of the Rivers in question, and the adjacent Objects, by the Commissioners, at the Instance of the Agents, in the Fall of 1796, the Edition of *Champlain* of 1613 was procured from Europe, containing a Map of the *Isle Sainte Croix*, a Copy of which is annexed; and a Search having been then made, by digging into the Soil of *Bone* or *Docias* Island, Bricks, Charcoal, Spikes, and other Artificial Articles, have been found, and evident Foundations of Buildings have been traced.

Whoever will compare these Proofs with the Bay of Passamaquaddy, including the Islands and Rivers in it, will perceive, that they result in *Demonstration* that the *Island S^t Croix* and the *River S^t Croix*, intended in them, are respectively *Bone Island* and the *River Scudiac*; the Mouth of the River being imagined to be at some place *below* the Island, notwithstanding the Space between it and the *Devil's Head* is, as has been intimated, more properly an Arm of the *Bay*, or as *L'escarbot* expresses himself, *Sea*.

And here it would seem there might have been an End of the *Question*; but the Agent on the part of the United States alledged, "that Mitchell's Map, published in 1755, was before the Commissioners, who negociated and concluded the provisional Treaty of Peace at Paris in 1782; from that they took their Ideas of the Country; upon that they marked the dividing Line between the two Nations; and that by the Line marked upon it their Intention is well explained that the River, intended by the Name of the *S^t Croix* in the Treaty, was the eastern River which emptys it's Waters into the Bay of Passamaquaddy;" and he thereupon offered in Evidence the Testimony of the three American Commissioners, as contained in the Depositions of two of them, and in the Letter from the other to M^r Sec^y Jefferson of the 8th April 1790, and also a Map of Mitchell as the *identical* Copy which the Commissioners had before them at Paris, it having been found deposited in the Office of Secretary of State for the United States, and having the Eastern Boundary of the United States *traced* on it, with a *Pen* or *Pencil*, through the Middle of the River, laid down as the *S^t Croix*, to a Lake, laid down as its Source and named *Kousaki*, and continued thence north as far as to where it was conjectured it would come to the *Highlands*.

The Agent on the part of His Majesty excepted to these Proofs on the Ground that the Matters, intended to be proved by them, were not admissable in Evidence; he nevertheless consented to their being

received, the Question on the Exception being understood to be reserved for the future Opinion of the Commissioners, if necessary.

Deposition of President Adams — In answer to Interrogatories by the Agent on the part of the United States he deposed, "that Mitchell's Map was the only Map or Plan which was used by the Commissioners at their public Conferences, tho' other Maps were occasionally consulted by the American Commissioners at their Lodgings; the British Commissioners at first claimed to Piscataqua River, then to Kennebeck, then to Penobscot, and at length agreed to St Croix as marked on Mitchell's Map — one of the American Ministers at first proposed the River St Johns as marked on Mitchell's Map, but his Colleagues observing, that as Saint Croix was the River mentioned in the Charter of Massachusetts's Bay they could not justify insisting on Saint Johns as an Ultimatum, he agreed with them to adhere to the Charter of Massachusetts's Bay" — but in Answer to the following Interrogatory by the Commissioners, for the Sake of *Explanation*, "Whether it was understood, intended, or agreed, between the British and American Commissioners that the River Saint Croix, as marked on Mitchell's Map should so be the Boundary as to preclude all Enquiry respecting any Error or Mistake in the said Map in designating the River Saint Croix; or whether there was any, and if so what, Understanding, Intent, or Agreement between the Commissioners relative to the Case of Error or Mistake in this respect in the said Map?" — he further deposed, "that the Case of such supposed Error or Mistake was not suggested, and consequently there was no Understanding, Intent, or Agreement expressed respecting it."

Gov^r Jay's Deposition — he deposed, "that in the Course of the Negotiations Difficulties arose respecting the eastern Boundary of the United States; Mitchell's Map was before them and frequently consulted for Geographical Information. In settling the Boundary Lines (described in the Treaty), and of which the River St Croix forms a part, it became a Question which of the Rivers in those parts was the *true* River St Croix?, it being said that several of them had that Name; that they did finally agree that the River St Croix, laid down in Mitchell's Map, was the River St Croix which ought to form a part of the said Boundary Line; but whether that River was so decidedly and permanently adopted and agreed upon by the Parties as conclusively to bind the two Nations to that Limit, even in Case it should afterwards appear that Mitchell had been mistaken and that the true River St Croix was a different one from that which is delineated by that Name in his Map, is a Question, or a Case, which he did not recollect nor believe was then put or talked of; for his own part he was of Opinion, that the eastern Boundaries of the United States ought, on Principles of Right and Justice, to be the same with the easterly Boundaries of the late Colony or Province of Massachusetts."

D^r Franklin's Letter — "I received Your Letter of the 21st past, relating to the Encroachments made on the eastern Limits of the United States, by Settlers, under the British Government, pretending that it is the western, and not the eastern, River, of the Bay of Passamaquaddy, which was designated by the Name of S^t Croix, in the Treaty of Peace with that Nation, and requesting Me to communicate any Facts, which my Memory or Papers may enable Me to recollect, and which may indicate the true River the Commissioners had in View to establish as the Boundary between the two Nations; I can assure You I am perfectly clear in the Remembrance, that the Map we used, in tracing the Boundary between the two Nations, was brought to the Treaty by the Commissioners from England, and that it was the same that was published by Mitchell above twenty Years before. That the Map we used was Mitchell's Map, Congress were acquainted at the time, by a Letter to their Secretary for foreign Affairs which I suppose may be found on their Files."

A Copy of Mitchell's Map is annexed, and the Copy, produced in Evidence, had on it the above mentioned Line *traced* with a *Pen* or *Pencil*, as stated by the Agent for the United States.

On these Proofs, waiving the Exception to them, it will suffice to remark, — that a Boundary Line, which Mitchell has in his Map, is the only Indication of the River he intended by the S^t Croix; his Intent or *Mind* in this respect not being to be discovered from the relative Situation of the River, or of the Lake laid down as its Source or from the Course or Length of the River, or the Form or Magnitude of the Lake, or indeed from the supposed Representations, as they appear on the Map, of any Objects whatever, the Map being, as to the Bay of Passamaquaddy and the Rivers issuing into it, and which will be manifest by comparing it with the one annexed from actual Survey, erroneous or imperfect in the Extreme — that the Boundary Line above alluded to is a *pricked* Line drawn along the western side of the River S^t Croix to the Lake as its Source, and thence round along the southerly and westerly Sides, and so far along the northerly Side, of the Lake, until it comes to the most northerly part of it, and then it is "DIRECT *towards the north*" to the River S^t Barnabas, being "*the nearest RIVER discharging itself into the great River of Canada;*" — that this Line was certainly intended to represent what was deemed, at the time, to be the Boundary of Nova Scotia from the Mouth of the S^t Croix to the S^t Lawrence — and therefore that the Map, and the other Proofs connected with it, instead of being of any Avail to the Party exhibiting them, are in Confirmation of the very Principle of the Claim of the opposite Party, namely, that the River intended in the Treaty of 1783 is the River intended in the Grant for Nova Scotia; the Reasoning from them being briefly, that the Commissioners at Paris intended the

River intended by Mitchell, and that he intended the River intended in the Grant for Nova Scotia.

The Proposition of *Fact* above stated being thus proved, the Commissioners, on the 25th Octo^r 1798, decided that the *Scudiac* was the River truly intended under the Name of the River *S^t Croix* in the Treaty of 1783; and it being expressed in the Treaty of 1794, "that the *Declaration* of the Decision should contain a Description of the River, and particularize the Latitude and Longitude of its Mouth and its Source," they were held, in addition to the principal Question, Which was the River, as to be distinguished from the *Magaguadavic* and every other River?, to decide likewise which of the Branches was the *main* Branch and as such the River or *Trunk*, and where its Source should be deemed to be; it is therefore to be further stated — that when the River was assumed, as a Boundary in the Grant for Nova Scotia, there was no Knowledge of it, at least from the Falls in it upwards, except what had been communicated to the French Colonists by the aboriginal Indians, as found in the above Extract from Champlain, and which amounts to no more, than that there were Portages from it to the Norembeque, supposed to be the Penobscot, and to the *S^t John*, and doubtless understood to be, the one from the western, and the other from the northern, Branch — that, previous to the Occasion of the present Reference, there never has been a Survey of the River, that the adjacent Country still remains unsettled and almost unfrequented, and consequently that the Case was wholly destitute of the Evidence of the Intention of *Parties*, and also of such as might have arisen from *Reputation* by *others*, to govern or aid in determining either the place of the Source of the River or which of the two Branches was the *main* Branch — that these Branches are nearly of the same Magnitude and Rapidity at their Confluence — that the Head-waters of them are a Collection of Lakes, a number of them, in some Instances more and in others less, forming a *Series* connected together by *Streights* from the one to the other, and — that hence the Difficulties may easily be conceived which occurred in deciding between the Branches, and where the Source of the Branch which might be decided to be the *main* Branch, should be deemed to be; and especially whether at the *first*, or at the most *remote*, Lake in a *Series* — The latter was the Rule adopted by the Commissioners — They decided that the *Mouth* of the River was at *Ive's Point*; that the *Northern* Branch was the *main* Branch or *River*, and continuing it through the several *Lakes* and the *Streights* connecting them in a *Series*, which extended to the *greatest Distance*, that its *Source* was at a Place for that purpose particularized in the *Declaration* as the *Source* of a *Stream* issuing into the *most remote* Lake.

There is still a Question concerning the Boundary between the two

Nations in that Quarter, but as it partakes of the Nature of an *omitted Case*, in respect to the *Reference* under the Treaty of 1794, can be settled only by Negotiation and Compact.

The Treaty of 1783 supposes the River S^t Croix to issue *immediately* into the Bay of Fundy, and it intended that the two Nations should equally *participate* in the *Navigation* of the River; the Question then is, How is the Boundary in the intermediate Space between where the Mouth of the S^t Croix hath been decided to be and the Bay of Fundy, to be established most consistent with the Intent of the Treaty? — In answer to which it may be suggested, that the Boundary should be a Line from the Mouth of the River, passing through the Bay of Passamaquaddy and one of the *Passages* from it into the Bay of Fundy, that the west Passage being unfit for the purpose, having a Bar across it which is dry at low water, the next to it must be taken, and the Line may be described, *Beginning in the Middle of the Channel of the River S^t Croix at its Mouth, thence direct to the Middle of the Channel between Point Pleasant and Deer, thence through the Middle of the Channel between Deer Island on the East and North, and Moose Island and Campo-bello Island on the west and south, and round the eastern Point of Campo-bello Island to the Bay of Fundy.*

The Commissioners were Thomas Barclay of the Province of Nova Scotia, David Howell of the State of Rhode Island and Egbert Benson of the State of New York.

The foregoing was prepared and one Copy furnished to the President of the United States and another to the American Minister in London, and this remaining Copy is presented to The Massachusetts Historical Society; because, if it is to be preserved, it can no where be so eligibly deposited as in their Collection.

E. B.

Mr. WINSOR further said that in some investigations which he had recently made respecting the maps used in determining questions arising under the interpretation of the language employed in the Treaty of 1783 respecting the bounds of Maine, he had hit upon the evidence, never before satisfactorily determined, that the famous red line on the map discovered by Sparks was the equivalent of such lines which long antedated the Treaty of 1783. This was indeed divined by Senator Benton and others during the debates upon the Ashburton Treaty, but it was not established by evidence. Long before the conclusion of the negotiations the United States Govern-

ment had selected from the maps in Harvard College Library such as were considered of use in the discussion; and these identical maps, marked as numbered in Gallatin's lists, are now in the College Library. The bugbear of the Red-line map not having then arisen, the maps in the same collection which would have quieted the apprehensions of Sparks and Webster were naturally overlooked. It may be recalled that Mr. Sparks discovered in the French Archives, in 1841, a note from Franklin to Vergennes, which referred to a map, sent to that minister, upon which Franklin had marked with a strong red line the bounds which had been agreed upon under the provisional articles. With the expectation of finding this map, Sparks turned to the map collection of the same archives, and discovered a small map by D'Anville, dated 1746, on which, in following the bounds of the revolted Colonies, there was a line of red pigment which kept the highlands across Maine south of the St. John nearly as the British claimed that it should run, but having a direction rather more favorable to the British than their claim. At a little later day the British Government sent an agent to the Paris Archives to find the map which Sparks described, and Brougham in his speech in Parliament at the time says Lord Granville's agent failed to find it; but according to Mr. Lewis J. Jennings, in his "Correspondence of John Wilson Croker" (London, 1884, vol. i. pp. 395, 400, 403), another map was found with a similar red line which favored the American claim.¹ At the time of the finding of the map favoring the American claim, the season had passed in which it was of use to declare that this last map was the true Franklin map; and in the absence of any knowledge of it, Mr. Sparks came to the belief that his red-line map might well be, or at least might possibly be, the one referred to by Franklin. He brought home a copy of it, and sent it with a

¹ Sir Robert Peel is credited with acknowledging that the agent did eventually find the Sparks map (N. Y. Hist. Soc. Proc. 1843, p. 71).

letter to Mr. Webster (Webster's Works, vol. ii. p. 143 ; Maine Hist. Soc. Coll., vol. viii. p. 96) suggesting its importance. It was alleged in the secret debates of the Senate upon the ratification of the treaty (Benton's Debates, vol. xiv. p. 546, etc.), that Mr. Webster had used this map to force the consent of the Commissioners of Maine to the treaty, and had held it up to Senators as dangerous evidence in case a new negotiation should become necessary by the failure of the present. It is curious to observe that Webster, after he had got the letter and map from Sparks, wrote to Mr. Everett, then our minister in England, and without letting him into the secret, cautioned him "against pressing the search after maps in England and elsewhere," plainly out of fear that the Sparks map might be re-discovered (Curtis's Webster, vol. ii. p. 103). Senator Benton and others who opposed the treaty in the Senate debates, explained away the Sparks map by assuming that the line belonged to the date of the map (1746) and not to the date of the treaty (1782), and that it represented an old French claim for the bounds of Canada upon Maine and Sagadahock. They brought no evidence to determine this beyond that of a map later than the treaty, which had a similar colored line, while a pricked uncolored line on the same map accorded with the American claim in following the highlands north of the St. John. That this uncolored line did not prove an offset to the colored line was owing to the absence of any legend explaining the lines. Accordingly the Sparks map has not ceased to be put forward in discussions of the subject even to a very recent day. The usual argument against its evidence has been simply that it could not be the map referred to by Franklin, because all other testimony respecting the line entertained by the American Commissioners, and even by the English Commissioners, was not in accord. This seems evident from the fact that the claim as formulated by the British was not fairly presented till some time had passed, namely, in 1815 ; but it is at the same time a striking concomitant that when

it was first brought forward, Adams and Jay were both living, and so far as any record now exists failed to make any protest against it.

In Canada it has been almost universally held, by writers on the Ashburton Treaty, that the concessions made by England were a surrender. This is seen in such essays as Coffin's "Quirks of Diplomacy," and Dent's "Last Forty Years of Canada;" but Sir Francis Hincks, in a tract which he published at Montreal in 1885, on "The Boundaries formerly in Dispute between Great Britain and the United States," apologetically defended the American claim, and disposed of the Sparks map as simply a deceit practised by Franklin upon Vergennes.

What Senator Benton divined was in reality the case, though Sparks, in an article on the Treaty of Washington, which he printed in the "North American Review" in April, 1843, undertook to say that the line of the so-called Franklin map had "no connection whatever with any old boundary of Canada." But Sparks was mistaken. The maps for a long period before the Treaty of 1782-1783 had had two lines of demarcation across the present State of Maine, according as they represented French claims or showed those of England. The English maps without exception gave the bounds of Massachusetts as north of the St. John; and it was this line, according to the understanding of the American Commissioners at least, that they were to engraft in the Treaty of 1782. This is undeniably the line given in all the maps published in England during the progress of the Treaty of 1782-1783, as shown in those of Sayer and Bennet, Bew, Willis, and Cary, not to name very many others. The French maps gave a line south of the St. John valley, varying more or less from time to time, but throwing into Canada all north of the English settlements, even if they did not include these settlements wholly or in part. The direction of the line as given in the small D'Anville map, found by Sparks, was just one of these French

claims; and we have the history of it in certain maps, beginning with the larger D'Anville map of the same year as the small D'Anville map (1746) which Sparks found, and of this larger map Sparks seems to have had no knowledge. On this larger map the line across Maine is given in a dotted line, which carries it back to the date of the engraving of the map itself.

The same dotted line is repeated in a Venice edition of D'Anville published in 1776. We find it again in a revised edition of Delisle's Canada, published in Paris in 1783, and once more in 1784 in a French map, which Benton cited in the debates of the Senate upon the Treaty of 1842, and which bore upon it a dedication to Franklin himself, and professed to emanate from the Government map-office and to show the lines of the treaty then newly made. There is need of looking at these French maps with a good deal of scrutiny, and with a full recognition of the spirit which was animating Vergennes at this time. It must be observed that this French map of 1784 gives by a dotted engraved line the bounds along the highlands as claimed by the Americans, while the bounds as claimed later by the British are marked by a line of pigment.¹ When we bear in mind the unconcealed purpose of the French Court to curtail wherever they could the bounds of the new republic, and particularly to flank it effectively on the side of Canada, we need not be at a loss to understand the cartographical devices of so wily a diplomatist as Vergennes in an attempt to resuscitate an old French line as being that which had been decided upon. The fact is that this French minister was the real instigator of the British claim, having an ulterior purpose, and acting in anticipation of the time when France might repossess Canada; and the further fact is that the Red-line map which threw such consternation into the councils of

¹ Sparks likewise cites a copy of Mitchell's map which had belonged to Baron Steuben, on which a painted boundary line was equally favorable to the English claim.

Webster in 1842 was but the expression of this same ulterior and sinister purpose of Vergennes. Precisely what this old French line was, can now be demonstrated, though the evidence seems hitherto to have escaped notice. There was issued in Paris in 1755 a "Carte des possessions Angloises et Françaises," which had alternative lines as marking the French claims to the lands of Maine. One of these lines gave to Canada all east of the Penobscot stretching to the St. Lawrence, but it followed west of the Penobscot mainly the height of land in which that river and the Kennebec found their sources. The other claim continued this highland line in an easterly direction, till it struck the gulf of St. Lawrence at Baye Verte, thus cutting off the southern English settlements in Maine and according substantially with the line later claimed by the British. Both of these alternative lines were marked on this map of 1755. The plate of this map four years later (1759) was transferred to London, and the map was there reissued as "A Map of the British and French Dominion in North America, by J. Palairet, improved by J. Rocque." This edition of the map has an engraved legend, reading as follows: "The red line drawn from Lake Ontario to Baye Verte shows another claim of the French north of the English Settlements, to the River St. Lawrence." Here we have the explanation of the line which in the maps of the French before the Peace of 1782 preserved an old claim, and in their maps after 1782 was used to give grounds for the curtailment of the American bounds, and was so readily adopted by the English geographer Faden in 1785, after he had already in 1783 published a map favoring the American claim, and equally deceived Gössefeld in 1784 in a map which he published at Nuremberg. More honest maps, both French and German, like Tardieu's in Paris and Reichard's in Nuremberg, continued, however, to favor the American claim. This map of the French royal geographer in 1784, copied by the English royal geographer in 1785, represents the hint given by Vergennes to England for a curtail-

ment of the new republic in a part of the described bounds, which could be diversely interpreted, and the English official acceptance of the hint. Events which turned the attention of the English Government away from the question of bounds caused the seed which Vergennes had sown to lie without germination till the experience of the War of 1812 made it for the interest of England to formulate their claim for the lower highlands.

There are indications going to show that thirty years ago there was in existence a map which was described as one in which Franklin, jointly with Hartley, the English negotiator of the Definitive Treaty, had marked the bounds as agreed upon. A catalogue of a sale of manuscripts in London April 6, 1859, embraced papers which seemingly came from the estate of David Hartley, and disclosed a large number of papers respecting the Treaty of 1783, arranged by Hartley, and included such a map as has been mentioned. Though the date of the sale is so recent, I have not been able to find the final disposition of the map, nor does the sale of it seem to have been within the cognizance of the three or four people most likely to have known of it. I do not find that the London Athenæum records any such sale. It would seem from the "Index" of the MSS. in the British Museum, published in 1880, that the correspondence, in part at least, of Franklin and Hartley at this sale passed into that library (pp. 586, 697, no. 23206, fol. 77; no. 24321, fol. 4); and certain of the copies of the Hartley papers on the negotiation probably fell into the hands of Joseph Sabin, as Mr. John Bigelow informs me that Mr. Sabin at one time possessed such a collection of copies.¹

¹ Mr. Winsor has since received a letter from General Charles B. Norton (Boston, Oct. 30, 1887) in which he says: "I purchased the Hartley papers at the sale in 1859. I offered the collection to the State Department in 1860, and a bill was offered in Congress for their purchase. At that time I struck off a circular of four pages, giving an analysis of their contents, which was sent to all historical societies and libraries. The papers were in a black walnut case, and the map with them. Long articles appeared in the 'Tribune' and the 'Post' at the

The catalogue defines this map as follows:—

No. 83. "The original map of the United States of America, sketched by Benjamin Franklin and H. B. M. plenipotentiary David Hartley, in Paris, in 1783. This most important document possesses historical and national interest, and marks the agreed boundaries and proposed western States."

If we are left in ignorance of this map with its joint attestation, there is a map of the highest authority which does exist and which supports the American claim. This is a Mitchell map of 1755 (known to have been the one used by the Commissioners of the treaty, as acknowledged on both sides) which has in several places written along the line, in the handwriting (as asserted by Brougham) of George III., the words "Boundary as described by Mr. Oswald." That it was not a line drawn by Oswald in the early part of the negotiations and rejected by the English Government (as shown in the map in Fitzmaurice's "Life of Shelborne," vol. iii. p. 294), appears from the fact that this map, differing from the map found among Jay's papers, includes the rectifications made by Strachey after he was sent over by the British Government to strengthen Oswald's hands. This is sufficient to establish this "Oswald line" as the line of the Definitive Treaty, and it is easy to show that Strachey and Oswald agreed upon a line to be run in the upper part of Maine. It may be observed, in passing, that Mr. Webster, in writing to Mr. Everett (April 25, 1843) after the close of the Treaty of 1842, was so ill-informed regarding this map that he speaks of it and of the Jay map as showing bounds precisely identical; and that Mr. Curtis in his "Life of Webster" (vol. ii. p. 168) has allowed the statement to pass without comment.

time. During my absence with the army the collection was sold to a Mr. Hartley of the Treasury Department. He has since died; and at the sale of his library the papers were doubtless purchased by Joseph Sabin, of New York." This map has since been traced to the collection of Mr. L. Z. Leiter in Washington. It is a rude manuscript draught.

Now, this map in the American interests, as attested by their most inveterate opponent, the King himself, was among that monarch's maps turned over to the British Museum at his death; but before the negotiations began in 1842, it had been withdrawn from that place of public access and assigned to the seclusion of the Foreign Office in London, if we may believe Lord Brougham's asseverations in Parliament. If we may believe similar evidence, it was known to Featherstonhaugh when he was sent over in 1838-1839 to work up the British theory of the lower line of the highlands below the St. John; but as if not to weaken the spirit of Ashburton, he was sent to America, as he acknowledges in a letter to Webster at a later date (Curtis's Webster, vol. ii. p. 168), without being let into the secret of it,¹ and did not know of it till the exigencies of securing an approval of the treaty in Parliament against its assailants induced Sir Robert Peel to bring the map forward and use it in the same way that Webster was charged with using the Sparks map in the secret sessions of the American Senate. We learn this from Brougham's speech (published in London, 1843). We also know that Lord Aberdeen subsequently gave Edward Everett, then our minister, a view of it, as his despatch of March 31, 1843, shows. Everett, in his oration at the dedication of the Webster statue in Boston, says that Peel and Aberdeen told him that they were in ignorance of this Oswald map till after the treaty was signed. This want of knowledge was at best a convenient one; for the ministry of Lord Melbourne had, as Brougham tells us, certainly known of it, and it is difficult to believe that the traditions of the Foreign Office were not preserved among the subordinates of the ministry, if it was by them adroitly kept from the heads of the government.

As if to perplex the matter beyond endurance, a map in 1841, said to be a Mitchell map of 1755, was found by Mr.

¹ His Government did, however, take care to supply him with a copy of the Faden map of 1785, which supported their claim.

Lemon in the Record Office in London, which showed a red line — this time professedly faint — which was run in accordance with the British claim. An attempt was made at the time to connect it with O_swald ; but the map of King George III., already referred to, gave it little chance of commending itself to the attention of anybody, and Fitzmaurice (Shelburne, vol. iii. p. 324) says there was no proof deduced.